

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

TUESDAY, THE 6TH NOVEMBER 2007 / 15TH KARTHIKA 1929

WP(C).No. 32592 of 2007(E)

PETITIONER:

M.J.CHACKO, S/O.JOSEPH,
MANNAMALA HOUSE, PEROOR P.O., KOTTAYAM.

BY ADV. SRI.B.PREMOD

RESPONDENTS:

1. STATE BANK OF TRAVANCORE, PALA BRANCH,
REPRESENTED BY ITS MANAGER.

2. JOSE EUGINE, S/O.JOSEPH,
CHIRAYIL, KUZHAKKUMBHAGAM KARA,
ETTUMANOOR, KOTTAYAM.

BY ADV. SRI.M.PATHROSE MATTHAI (SR.)
SRI.SAJI VARGHESE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06/11/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

V. GIRI ,J.

WP(C).NO.32592 of 2007

Dated this the 6th day of November, 2007

JUDGMENT

According to the petitioner, he purchased two standing timbers (Anjili trees) under Ext.P1 agreement for sale from the owner - the second respondent. Trees were standing in the land comprised in Sy.Nos.341/3, 341/9 and 341/14 of the Ettumanoor Village. According to the petitioner, though one of the standing timbers was removed by him from the property, the other had remained there, from 2004 because the petitioner was searching for appropriate purchasers. In the meanwhile the first respondent Bank initiated proceedings against the second respondent under the Securitisation Act. Property where the timber stands along with other properties were attached and the Bank has taken possession of the same. The petitioner prays that the timber in question should be released to him, if necessary on a bond executed by him agreeing to make good any loss which the Bank may suffer, if it finds that it is unable to realise the entire amount due to it from the second respondent.

2. I have heard the learned standing counsel for the first respondent also. In my view, this writ petition is misconceived. Essentially what is sought for by the petitioner from this Court is an

adjudication on the correctness of Ext.P1 as also the question as to whether the petitioner is actually the owner of the tree which was standing in the property of the defaulter. Such an adjudication would involve a determination of disputed questions of fact also. Learned counsel for the Bank submits that the petitioner has a remedy before the Debt Recovery Tribunal. He may have a remedy before the Civil Court also. In the circumstances, this writ petition is dismissed giving liberty to the petitioner to move the Debt Recovery Tribunal or the Civil court, if permissible and if so advised.

V. GIRI, JUDGE

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